

AMENDING THE PROVISIONS OF THE REVISED STATUTES RELATING TO THE PHYSICAL EXAMINATION OF OFFICERS OF THE NAVAL SERVICE

JUNE 20, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KILDAY, from the Committee on Armed Services, submitted the following

R E P O R T

[To accompany H. R. 9892]

The Committee on Armed Services, to whom was referred the bill (H. R. 9892) to amend the provisions of the Revised Statutes relating to physical examinations preliminary to promotion of officers of the naval service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 2, lines 1 and 2, strike out the words "the medical examiners shall report" and substitute in lieu thereof the words "the Secretary of the Navy or the Chief of the Bureau of Medicine and Surgery when authorized by the Secretary of the Navy determines".

The purpose of the proposed legislation is to amend the Revised Statutes so as to eliminate the necessity of having naval officers examine by a statutory board of naval surgeons prior to being promoted to the next higher grade on the active list of the Navy. There is a similar requirement for promotion in the Marine Corps.

As a result, it has been necessary to convene boards of naval surgeons or naval medical officers to determine whether officers to be promoted in the Navy and the Marine Corps are physically qualified to perform all duties at sea and in the case of the Marine Corps, also in the field.

In addition to the boards that are convened, the findings of such boards must be reviewed by the Judge Advocate General.

This procedure is time consuming—without any advantage to the Government—and the proposed legislation will permit a less formal procedure to be followed by permitting a submission of the physical examination for promotion to be made to a single administrative board

in the Bureau of Medicine and Surgery which will review the physical examinations that will be given as the Secretary of the Navy may prescribe.

A further provision of the proposed legislation would place in one law the provisions of existing portions of the Revised Statutes which permit officers of the Regular Navy and Marine Corps who are physically disqualified by reasons of wounds received in line of duty to be promoted if such wounds do not incapacitate them for the performance of useful service in the higher grade.

Adoption of the less formal procedure for conducting and reporting physical examinations for promotion have proved effective under other laws and will not result in a lowering of the physical standards.

For example, the Temporary Promotion Act of 1953, the Warrant Officer Act of 1954, and the Reserve Officer Act of 1954, all permit physical examinations to be conducted and reported pursuant to regulations promulgated by the Secretary of the Navy. This procedure has greatly reduced paperwork since only the actual objective findings of the medical examiners in the field are reported on a standard examination form and these reports are reviewed by senior medical officers in the Bureau of Medicine and Surgery. Thus the proposed legislation would permit adoption of substantially the same system for Regular officers.

In addition, it is anticipated that the examination in the field may, if necessary, be conducted by medical officers of other services, thus eliminating the expense involved in ordering officers at isolated activities to stations whose complements include sufficient naval surgeons and clerical personnel to permit them to constitute formal boards.

The proposed legislation also retains in substance the present provision of law which authorizes an officer whose physical disqualification for promotion which was caused by wounds received in line of duty to be promoted if such wounds do not incapacitate him for the performance of useful service in the higher grade. The bill, as originally introduced, provided for this determination to be made by a medical examiner. At the request of the Department of the Navy and with the concurrence of the Department of Defense, the committee amended the proposed legislation to permit this determination to be made by the Secretary of the Navy or the Chief of the Bureau of Medicine and Surgery when authorized by the Secretary of the Navy.

Enactment of the proposed legislation will not result in any increased cost to the Government and may well result in savings.

The Department of Defense recommends enactment of the proposed legislation and the Bureau of the Budget interposes no objection, as indicated by the following letter, hereby made a part of this report.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., February 27, 1956.

HON. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend the provisions of the Revised Statutes relating to

physical examinations preliminary to promotion of officers of the naval service.

This proposal is a part of the Department of Defense legislative program for 1956, and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to revise to meet changed conditions the provisions of the Revised Statutes governing the physical examination preliminary to promotion of officers of the naval service.

Section 1493 of the Revised Statutes provides that no officer shall be promoted to a higher grade on the active list of the Navy until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea.

Section 9 of the act of May 29, 1934 (48 Stat. 812), provides that section 1493 of the Revised Statutes is so far amended in its application to the Marine Corps as to require that no officer shall be promoted to a higher grade until he has been examined by a board of naval medical officers and pronounced physically fit to perform all his duties at sea and in the field.

As these boards of medical examiners are statutory examining boards they require legal review by the Judge Advocate General of the Navy under the act of June 8, 1880 (21 Stat. 164), as amended (5 U. S. C. 428). This is a cumbersome and time-consuming procedure originated at a time when naval officers were relatively few in number. These statutes are applicable to the physical examinations preliminary to promotion of all ensigns of the Regular Navy and second lieutenants of the Regular Marine Corps permanently promoted to the next higher grade, and of all officers of the Regular Navy and Marine Corps promoted under the Officer Personnel Act of 1947 and under the Women's Armed Services Integration Act of 1948. Because of the number of these officers promoted annually, the preparation of these reports in the field and their legal review in the Office of the Judge Advocate General have become an administrative burden not warranted by the results achieved. It has been demonstrated that less formal procedures for conducting and reporting physical examinations for promotion, such as those in effect by regulation under the Temporary Promotion Act of 1941, are completely satisfactory. Under those regulations the examinations are conducted in the field by naval medical officers and reviewed by an administrative board of naval medical officers in the Department of the Navy.

The proposed revision of section 1493 of the Revised Statutes would provide that no officer may be promoted to a grade above that of ensign in the Navy or second lieutenant in the Marine Corps until he has qualified therefor by such physical examination as the Secretary of the Navy may prescribe. This revision would permit a less formal procedure to be followed, while still maintaining the same standards for physical qualification for promotion. It would also operate to reduce considerably the paperwork involved in these examinations.

The proposed revision of section 1493 would also embody the provisions of section 1494 of the Revised Statutes (34 U. S. C. 272) and the pertinent provisions of the act of August 29, 1916 (34 U. S. C. 666), which permit officers of the Regular Navy and Marine Corps, respectively, who are physically disqualified by reason of wounds received in line of duty to be promoted if such wounds do not incapacitate them for the performance of useful service in the higher grade. Those statutes would be repealed as would section 9 of the act of May 29, 1934 (34 U. S. C. 665), which contains provisions for the physical examination of officers of the Marine Corps similar to those for officers of the Navy contained in section 1493 of the Revised Statutes.

COST AND BUDGET DATA

Enactment of this proposed legislation will cause no increase in budgetary requirements within the Department of Defense.

Sincerely yours,

ALBERT PRATT,
Acting Secretary of the Navy.

In compliance with clause 3, of rule XIII of the Rules of the House of Representatives, there is herewith printed in parallel columns the text of provisions of existing laws which would be repealed or amended by the various provisions of the bill.

EXISTING LAW

Section 1493 of the Revised Statutes:

"SEC. 1493. No officer shall be promoted to a higher grade on the active list of the Navy, except in the case provided in the next section, until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea.

THE BILL

SEC. 1. Section 1493 of the Revised Statutes is amended to read as follows:

"SEC. 1493. No officer of the Regular Navy or Regular Marine Corps may be promoted to a grade above that of ensign in the Navy or second lieutenant in the Marine Corps until he has qualified therefor by such physical examination as the Secretary of the Navy may prescribe. No officer shall be excluded from a promotion to which he would otherwise be regularly entitled if in his case the medical examiners shall report that his physical disqualification was by reason of wounds received in the line of duty and that such wounds do not incapacitate him for the performance of useful service in the higher grade."

EXISTING LAW

THE BILL

"SEC. 1494. The provisions of the preceding section shall not exclude from the promotion to which he would otherwise be regularly entitled any officer in whose case such medical board may report that his physical disqualification was occasioned by wounds received in the line of his duty, and that such wounds do not incapacitate him for other duties in the grade to which he shall be promoted."

Act of August 29, 1916:

"MARINE CORPS

* * * * *

"The provisions of sections fourteen hundred and ninety-three and fourteen ninety-four of the Revised Statutes of the United States shall apply to the Marine Corps."

Act of May 29, 1934—

SEC. 9. That section 1493, Revised Statutes (U. S. C., title 34, sec. 665), is so far amended in its application to the Marine Corps as to require that no officer shall be promoted to a higher grade, excepting in the case provided in section 1494, Revised Statutes (U. S. C., title 34, sec. 666), until he has been examined by a board of Naval medical officers and pronounced physically fit to perform all his duties at sea and in the field."

SEC. 2. The following laws and parts of laws are repealed:

(1) Section 1494 of the Revised Statutes (34 U. S. C. 272);

(2) The last sentence of the tenth paragraph under the heading "Marine Corps" of the Act of August 29, 1916 (c. 417, 39 Stat. 611; 34 U. S. C. 666); and

(3) Section 9 of the Act of May 29, 1934 (c. 367, 48 Stat. 812; 34 U. S. C. 665).

The following is a list of the names of the persons who have been appointed to the various offices of the General Land Office, since the last report of the Commissioner.

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